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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,194	02/01/2001	Eleazar Eskin	12206-002001	7090
26161	7590	10/03/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			NGUYEN, LEE	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/775,194	Applicant(s) ESKIN, ELEAZAR	
	Examiner LEE NGUYEN	Art Unit 2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-13, 18-22 and 26-71 were canceled. Claims 14-17, 23-25 remain in prosecution.

Information Disclosure Statement

1. The IDS filed 07/07/2005 has been considered and recorded in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Irvin (US 6,658,264).

Regarding claim 23, Irvin teaches a method comprising: maintaining a list of short-range wireless devices within range of a first short-range wireless device (col. 8, 59-64); transmitting a message from an identified user of the first device to a second identified

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user of a second wireless device over a communication medium (col. 8, 64-66), the communication medium being selected based at least in part on whether the second device is included on the list, the selection being transparent to the user of the first device (col. 8, 66 through col. 9, 4).

Regarding claim 24, Irvin also teaches that if the second device is included on the list, the message is transmitted to the second device over a short-range radio link, and if the second device is not included on the list, the message is transmitted to the second device using another communication medium (col. 8, 64 through col. 9, 4).

Regarding claim 25, Irvin also teaches that if the second device is not included on the list, the message is transmitted to the second device over either the Internet or by mobile telephony (col. 8, 64 through col. 9, 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jokinen et al. (U.S. Publication 2002/0095333) in view of Lehtikoinen et al. (U.S. Publication 2002/0077060).

Regarding claim 14, Jokinen teaches a method comprising: maintaining in a wireless device a list of real-world services that are available from a user of the device through an application running on the device, see [0038], [0040], and [0047]; and through a wireless communication channel, broadcasting information from the device indicative of the available real-world services, see [0040], 0054]. Jokinen fails to teach that the wireless device is a handheld wireless device. In an analogous art, Lehtikainen teaches a portable transceiver 14 which is used to broadcast services to another wireless devices (see [0030] and [0040]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lehtikainen with Jokinen in order to provide portability to the broadcast services.

Regarding claim 15, Jokinen also teaches that the information is broadcast periodically, see [0048].

Regarding claim 16, Jokinen also teaches that another wireless device that receives the broadcast information accesses one of the available real-world services, see figure 10 and [0055].

Regarding claim 17, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 14.

Response to Arguments

Applicant's arguments with respect to claims 14-17 have been considered but are moot in view of the new ground(s) of rejection.

Regarding the rejection of independent claim 23, Applicant argues that Irwin's list appears to be maintained without regard to which other devices are or are not within range.

In response, Irwin's double entry handbook maintains the list of walkie-talkie (or Bluetooth, which is within a short-range communication, see abstract and column 8, line 59 through column 9, line 5), which is preferred to be used. Therefore, Irwin does teach the claimed limitation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

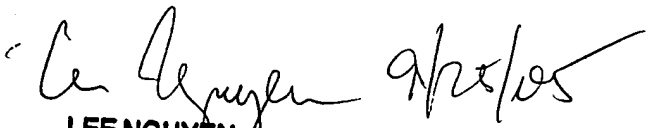
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is 571-272-7854. The examiner can normally be reached on FIRST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NICK CORSARO can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LEE NGUYEN
PRIMARY EXAMINER